

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

BLAYDE GRAYSON

PETITIONER

VS.

CIVIL ACTION NO.: 1:04cv708-CWR

**LYNN FITCH, Attorney General, State of
Mississippi, BURL CAIN, Commissioner,
Mississippi Department of Corrections, and
TIMOTHY MORRIS, Superintendent,
Mississippi State Penitentiary**

RESPONDENTS

ORDER ALLOWING ACCESS

This matter came before the Court on the Petitioner's Renewed Motion for Access by Expert Psychiatrist [Doc. #139]. The Motion seeks authority for allowing entry by Dr. Donna S. Maddox, an expert previously appointed by this Court, to examine the Petitioner, Blayde Grayson, in connection with competency proceedings in state court. The basis for the Motion is the litigation that began in state court when Grayson filed a *pro se* letter motion asking that the members of the Mississippi Supreme Court "see that my execution should be carried out forthwith." Shortly after, one of the attorneys appointed in this Court to represent Grayson notified the state court that there was a federal habeas case pending. Grayson's attorney asked that his *pro se* motion be dismissed.

The State filed a response to Grayson's motion, and moved that the court remand the case to the county of Grayson's conviction, so that it could proceed with a determination of Grayson's competence to waive his appeals. Grayson's attorneys responded to the State's motion, including a "Notice of Withdrawal of *Pro Se* Motion to Carry Out Execution Forthwith." The Mississippi Supreme Court, after noting that the Notice of Withdrawal did not contain an affidavit or other written statement from Grayson, remanded the matter to the Circuit Court of

George County, so that Grayson can make a statement on the record as to whether he wishes to proceed with his *pro se* motion and waive his appeals.¹ If Grayson affirms his desire to withdraw his motion, then the Circuit Court is instructed to enter an order to that effect and forward the order to the Supreme Court. If Grayson indicates that he wishes to proceed with the motion, then the Circuit Court is to determine whether Grayson is competent to make that decision. The Circuit Court has set that hearing for April 7, 2022.

Having reviewed the Motion and the parties' related filings, the Court is of the opinion that it is appropriate for Dr. Maddox to examine Grayson prior to the April 7 hearing, and the Motion for Access will be granted. As was provided in the Court's earlier Order Granting Access, the visit will be scheduled and take place in accordance with the current applicable rules and regulations in the Standard Operating Procedures of the Mississippi Department of Corrections.

IT IS, THEREFORE, ORDERED that the Petitioner's Renewed Motion for Access by Expert Psychiatrist [Doc. #139] is hereby **granted**.

IT IS SO ORDERED, this the 18th day of March, 2022.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE

¹ A habeas case is not actually an "appeal," but a separate civil action. *Fay v. Noia*, 372 U.S. 391, 423-24 (1963) ("[H]abeas corpus [is] an original ... civil remedy for the enforcement of the right to personal liberty, rather than ... a stage of the state criminal proceedings ... or as an appeal therefrom."); *Hernandez v. Thaler*, 630 F.3d 420, 424 n.12 (5th Cir. 2011).